

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re **John Oliver**) Case No. **19-52845**
) Chapter **13**
) Judge **John E. Hoffman Jr.**
Debtor(s)

MOTION TO MODIFY DEBTOR'S CHAPTER 13 PLAN

Now comes John Oliver, the “Debtor,” by counsel, who hereby moves the Court for an Order modifying the Chapter 13 plan by decreasing Debtor’s monthly plan payment from \$775.00 to \$225.00 per month starting February 2021 and continuing for the remainder of the Chapter 13 plan. Pursuant to the plan modification proposed herein the total amount to be paid by the Debtor to the Trustee would be reduced from \$31,775.00 to \$19,650.00, and the dividend to be paid to general unsecured creditors is estimated to be no less than 7.40%. This motion is made pursuant to 11 U.S.C. §1329(a) and Fed. R. Bankr. P. 3015 (h).

Memorandum In Support

Debtor filed for Chapter 13 Bankruptcy relief on April 30, 2019, and the Chapter 13 plan was confirmed on July 16, 2019, Document 26. As originally confirmed, Debtor’s plan calls for a total of \$31,775.00 to be paid by the Debtor to the Trustee in monthly payments of \$775.00 for the duration of the plan with a dividend to general unsecured creditors estimated to be no less than 6.21%. There have been no modifications of the Chapter 13 plan to date. Since the Chapter 13 plan was confirmed there have been significant changes to Debtor’s circumstances that require modification of Debtor’s plan.

Debtor’s monthly income has been significantly reduced. At the time Debtor’s bankruptcy case was confirmed Debtor’s brother paid monthly rent to Debtor in the amount of \$549.46, which Debtor was to contribute to the plan. The confirmed plan provided that the monthly mortgage payment owed on the rental property would be paid conduit through Debtor’s Chapter 13 plan. Debtor’s brother has since moved from the rental property and is no longer paying monthly rent to Debtor resulting in a decrease to Debtor’s monthly income. As such, Debtor has surrendered his interest in the rental property located at 1180 Adelphia Street Road in Wellston, Ohio, Document 32. Additionally, Debtor’s monthly household expenses have increased. Since Debtor’s Chapter 13 plan was confirmed Debtor’s household size increased from one to two when Debtor’s son was born. The increase to household size resulted in increased household expenses. As a result of the decrease to Debtor’s monthly household income and the increase in Debtor’s monthly household expenses, Debtor’s plan is no longer feasible.

To ensure that Debtor's Chapter 13 plan is feasible while committing Debtor's anticipated future disposable income to the repayment of pre-petition creditors, Debtor hereby proposes that the Chapter 13 plan be modified to decrease the monthly plan payment from \$775.00 to \$225.00 per month starting February 2021 and continuing for the remainder of the Chapter 13 plan. This proposed modification impacts the rights of creditors and parties in interest by ensuring that payments under the Chapter 13 plan are feasible in relation to Debtor's changed circumstances by reducing the total amount to be paid by the Debtor to the Trustee from \$31,775.00 to \$19,650.00. The dividend to be paid to general unsecured creditors is estimated to be no less than 7.40% under the proposed modification.

Debtor respectfully submits that the proposed plan modification set forth herein satisfies the thirty-six month commitment period applicable to his Chapter 13 plan, meets the best interests of creditors, and represents Debtor's best effort with regards to the payment of his prepetition creditors under his current situation. Amended Schedules I and J will be filed separately from this Motion.

Wherefore, Debtor respectfully requests that this Court enter an Order GRANTING Debtor's Motion and modifying Debtor's Chapter 13 Plan as follows:

1. Decreasing Debtor's Chapter 13 plan payment from \$775.00 to \$225.00 per month starting February 2021 and continuing for the remainder of the Chapter 13 plan; and
2. Decreasing the total amount to be paid by the Debtor to the Trustee from \$31,775.00 to \$19,650.00, with a dividend to be paid to general unsecured creditors estimated to be no less than 7.40%.

/s/Karrie Mae Southern

Karrie Mae Southern/0090717
Karrie Mae Southern Law Office, LLC
253 South Paint Street, Suite E
Chillicothe, Ohio 45601-3832
Ph: (740) 851-5997

Notice of Motion

Debtor has filed papers with this Court requesting the relief sought in this Motion (collectively, the “Motion”), which is enclosed with this Notice.

Your rights may be affected. You should read the Motion carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the Motion, you must file a response to the Motion within **twenty-one (21) days from the date set forth in the certificate of service for the Motion**.

Your response to the Motion explaining your position, must be filed with the Court and mailed by First Class Mail to the United States Bankruptcy Court

170 North High Street, Columbus OH 43215

OR your attorney must file the response using the Court’s ECF System.

The Court must **receive** your response on or before the deadline above.

You must also send a copy of your response either by 1) the Court’s ECF System or by 2) First Class Mail to:

John B Oliver
52 Star Street
Jackson, OH 45640

Karrie Mae Southern
Karrie Mae Southern Law Office
253 S. Paint St., Ste. E
Chillicothe, OH 45601-3832

Faye D. English
Chapter 13 Trustee
10 West Broad Street, Suite 1600
Columbus, OH 43215

U.S. Trustee
170 North High Street, Suite 200
Columbus, OH 43215

If you or your attorney does not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting the Motion without further hearing or notice.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served electronically on the date of filing through the Court's ECF System on all ECF participants registered in this case at the email address registered with the Court and

by first class mail on February 24, 2021 addressed to:

John B Oliver, 52 Star Street, Jackson, OH 45640

All parties in interest listed on the attached index that were not served electronically via ECF mail.

/s/Karrie Mae Southern

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